

Amendments to the Drawings

The attached sheets of drawings include changes to Figs. 4 and 7–10. These sheets replace the original sheets of drawings. New drawings are shown in the Appendix

Appendix: Replacement Sheets (4)

REMARKS/ARGUMENTS

Amended claims 1-10 and 18-21 are presented for Examiner Kokabi's consideration.

Pursuant to 37 C.F.R. § 1.116, reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

The Examiner has stated that the information disclosure statement filed 9/24/2003 failed to comply with 37 CFR 1.98(a)(2). Applicants' attorney, Mr. Connelly, provided a communication dated March 24, 2004 resubmitting the IDS dated 9/24/2003 as a courtesy to Examiner Kokabi. Mr. Connelly telephoned Examiner Kokabi on May 12, 2004 and Examiner Kokabi indicated that she had received the March 24, 2004 submission. In view of this, Applicants request that this art be considered by the Examiner and be made a part of the record.

Examiner Kokabi has indicated in her last Office Action that the drawings are acceptable. However, Applicants have identified minor changes that should be made to Figs. 4 and 7 – 10. New sheets of drawings containing these Figures are attached. In particular, in Fig. 4, numerals 64 and 68, each with a lead line, has been added since a pair of flaps 64 and a pair of sidewalls 68 are described in the specification. In Fig. 7, numeral 26 along with a lead line has been added. In Fig. 8, numeral 48 along with a lead line has been added. In Fig. 9, numeral 20 has been replaced by 20". Lastly, in Fig. 10, W'_3 with a lead line and an arrow has been deleted and has been replaced with W_3 and a lead line without an arrow. The lead line from W_3 extends to the edge of the web of material. No new subject matter has been entered by way of these changes and therefore they should be entered at this time.

Claims 1, 5-6 and 8 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. patent 5,354,132 issued to Young et al. This rejection is respectfully **traversed** in view of the amendments to these claims.

Claims 2-4, 7, 9, 10, 18 – 20 were rejected under 35 U.S.C. § 103 as allegedly being obvious to one of ordinary skill in the art at the time the invention was made over U.S. patent 5,354,132 issued to Young et al. in view of U.S. patent 4,720,880 issued to Barreau. This rejection is respectfully **traversed** in view of the amendments to these claims.

Claim 21 was rejected under 35 U.S.C. 103(a) as being obvious over Young et al. in view of Barreau and further in view of U.S. patent 5,674,578 issued to Giori. This rejection is respectfully **traversed** in view of the amendments to these claims.

Independent claim 1 and dependent claims 2-10 have been amended, along with independent claim 18 and dependent claims 19-21. In independent claim 1, Applicants have amended the claims to state

that the receiving portion has a volume V1 and the collection portion has a volume V2, with V1 being greater than V2. Basis for this language is found on page 8, lines 29-30, of the specification and also in original dependent claim 9. Applicants have also rephrased paragraph (b) of claim 1 and have added the language “the combination of said aperture and said seam for promoting” the passage of material from the receiving portion to the collection portion. Basis for this language is found on page 8, lines 20-22 of the specification. Lastly, Applicants have amended the claim by deleting the word “the” and inserting the word “said” in several locations.

Dependent claims 2-9 have been amended by deleting the word “the” and replacing it with the word “said”. In claim 6, the dependency has been changed from claim 5 to claim 1. In addition, the words “first and second opposing members” have been added in place of “opposing sides”. In claim 9, volumes V1 and V2 of the receiving portion and collection portion, respectfully, have been deleted since this language is now contained in independent claim 1. In addition, Applicants refer to “a” ratio instead of “the” ratio.

Dependent claim 10 has been amended to depend from claim 1 instead of claim 9 and the ratio of V2 over V1 is less than about 1. Basis for the language of “less than about 1” is found on page 9, line 20 and 21 of the specification.

Independent claim 18 has been amended in a similar fashion as in independent claim 1. The language stating that the container is formed from a water degradable material has been moved up into paragraph (a) from paragraph (b).

Dependent claim 19 has been amended in a similar fashion as claim 9 since V1 and V2 are now in the independent claim 18.

Claim 20 has been amended to delete the word “the” and replace it with the word “said”.

Lastly, dependent claim 21 has been amended to delete the word “the” and replace it with the word “said” and the word “having” has been replaced by the word “including”. These changes are made only

for allowing the claim to be more readable. No new matter has been introduced by way of these amendments, and, therefore, they should be entered at this time.

Independent claims 1 and 18 are now clearly distinguished over Young in the fact that both claims require that the receiving portion have a volume V1 and the collection portion has a volume V2, with the V1 being greater than V2. Young teaches just the opposite by showing figures wherein the volume of the collection portion is much greater than the volume of the receiving portion. One would not arrive at Applicants' invention by reading Young because Young teaches just the opposite of what the Applicant is claiming. Therefore, it would not be apparent to one skilled in the art to reverse the teaching of Young in order to obtain the structural features claimed by Applicants. In view of this, Applicants believe that amended claims 1-10 and 18-21 are patentably distinct over Young et al.

In addition, independent claims 1 and 18 are patentably distinct over the combination of Young et al. in view of Barreau. Applicants' independent claims 1 and 18 recite an anti-splash member including at least one aperture and at least one seam. The seam joins the first and second opposing members together. In claim 18, the seam is recited as being joined to at least one sidewall. The combination of the aperture and seam promote the passage of materials from the receiving portion to the collection portion. Barreau does not have an anti-splash member that is comprised of at least one aperture and at least one seam. Barreau also does not have an anti-splash member which divides the protective lining assembly into a receiving portion and a collection portion. The Young et al. patent, see Figs. 1-3, does show an anti-splash member having a pair of seams 26 and 28 with an opening 30 formed therein. However, the seams 26 and 28 do not join the first and second opposing members together. If one looks at Figure 3 of Young et al., one will notice that the first and second opposing members 12 and 14 are equivalent to Applicants' exterior sheets. The seams 26 and 28, according to Young at column 4, lines 6-11, are a pair of opposed sheets 22 and 24 that are connected together along seams 26 and 28. The sheets 22 and 24 are not equivalent to the exterior sheets 12 and 14. In fact, the interior sheets 22 and 24 are not attached to the exterior sheets 12 and 14, but instead are an extension thereof which are folded over in order to form the anti-splash member. This structure is completely different from the structure claimed by Applicants wherein the seam is joined to each of the first and second opposing members. In Figure 3 of Young, one will notice that the interior sheet 22 can be an extension of the exterior sheet 12, which is formed by folding that end inward upon sheet 12. Likewise, the interior sheet 24 can be formed by folding one end of the exterior sheet 14 inward upon itself. However, in neither case are the sheets 22 and 24 joined to both exterior sheets 12 and 14. In Young et al., sheets

22 and 24 are joined to each other to form the seams 26 and 28, but the seams 26 and 28 do not adhere sheets 22 and 24 to the exterior sheets 12 and 14. This is a very important point because, in Applicants' invention, the container can be constructed of only two exterior sheets and a single seam which joins the two exterior sheets together. This structure is not taught or disclosed by the Young et al. patent. In view of the above structural differences, Applicants believe that independent claims 1, dependent claims 2-10, and independent claim 18 and dependent claims 19-21 are all patentably distinct over the combination of Young et al. in view of Barreau.

Applicants' dependent claim 21 is patentable over the combination of Young et al. in view of Barreau and further in view of Giori (U.S. Patent 5,674,578). Applicants agree that Giori does disclose forming a pouch from a multi-layer film wherein the film can include two or more layers. However, Applicants' dependent claim 21, which recites three layers, is dependent upon independent claim 18. Independent claim 18 differs over Young et al. and Barreau as recited above. Therefore, the addition of the three layers into Young et al. and Barreau does not anticipate Applicants' invention because the combination of the three patents do not recite a receiving portion and a collection portion, each having a different volume, with the volume of the receiving portion being greater than the volume of the collection portion, nor the presence of a seam which joins the sidewalls of the container together. In addition, the combination of the three patents do not teach an anti-splash means having a combination of an aperture and a seam, which promote fluid passage from the receiving portion to the collection portion, but restrict passage in the opposite direction. In view of these differences, Applicants believe that dependent claim 21 is patentably distinct over the combination of Young et al. in view of Barreau and further in view Giori.

In view of the above amendments and remarks, Applicants believe that amended claims 1-10 and 18-21 are patentably distinct over the cited prior art and should be allowed at this time.

For the reasons stated above, it is respectfully submitted that all of the presently presented claims are in form for allowance.

Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

The undersigned may be reached at: (920) 721-2455.



RESPONSE UNDER 37 C.F.R. § 1.116
EXPEDITED PROCEDURE
TC/A.U. __3743__

Respectfully submitted,
DANIEL L. ELLINGSON ET AL.

By: Thomas J. Connelly
Thomas J. Connelly
Registration No.: 28,404

CERTIFICATE OF MAILING

I, Lanette Burton, hereby certify that on May 21, 2004, this document is being deposited with the United States Postal Service as first-class mail, postage prepaid, in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

By: Lanette Burton
Lanette Burton